**REMARKS/ARGUMENTS**

Upon entry of the instant amendment, claims 66-91, 93, 95 and 96 are pending in the instant application. Claims 95, 96 have been added. Applicants respectfully submit that the amendments do not introduce new matter and are made without any intention to abandon the subject matter as filed, but with the intention that claims of the same, greater, or lesser scope may be filed in a continuing application.

A Request for Continued Examination (RCE) is hereby requested where the requisite fee and transmittal form are submitted herewith.

**Rejections Under 35 U.S.C. §101**

The Examiner rejected claims 66-85 and 92-94 under 35 U.S.C. §101, as being directed to non statutory subject matter for failing to meet the statutory requirements of 35 U.S.C. §101 where claims 66 and 92 do not require a particular apparatus to be used in performing their claimed steps as they could be performed manually. The Examiner's arguments are respectfully traversed as the methods disclosed in the instant application are not readily amenable to a manual manipulation. Specifically, the forecast utilized in the instant application is far too complicated for an individual to perform manually. For the sake of clarity and expediting the examination of the instant application, the applicant has amended the method claims to clearly recite the apparatus associated with the method as disclosed in the description of the instant application.

**Rejections Under 35 U.S.C. §102(b)**

The Examiner rejected claims 66-69, 71-89 and 92-94 under 35 U.S.C. §102(b) as being anticipated by Smith, US Patent Publication No. 2002-0188506, referred to as Smith from hereon in. The Examiners asserts that Smith teaches a method for delivering weather related advertisement to an individual as particularly disclosed in various combinations of Smith paragraphs 8, 24-30, 31, 33, 39, 48, 57, 59-65, 67, 70-72 and Figures 1, 7A and 7B therein anticipating the instant invention. Specifically, the Examiner specifies that independent claims 66 (method) and 86 (system) are disclosed by Smith as taught in paragraphs 67, 28, 31, 57, 59, 63,Figure 1, 7A and 7B. Similarly, the Examiner asserts that independent claim 92 is disclosed in paragraph 24-31 and 56-67.

The Examiner argues that the weather based advertisement of the instant application is anticipated by Smith, rendering the respective systems equivalent because the forecast upon which they are based are essentially equal in that they offer a forecast that is both within a real-time frame and a geographically confined location. The Examiners assertion is respectfully traversed as the weather prediction that serves as the base for the instant application is significantly different from that of Smith. That is the instant method and system are significantly different from Smith in that the parameters and data upon which it is based is significantly different leading to significantly different forecasts and in turn advertisements. Specifically the instant application utilizes unique meteorological data, chosen from the group consisting of satellite data and radar data to abstract the weather prediction upon which the advertisement is based. Conversely Smith does not utilized nor suggests the use of such data in their weather database.

The Examiner further argues that the weather forecast referred to by Smith and that of the instant application are both forecasts that are based on a geographically confined location and within a real-time frame therefore rendering them essentially the same. The Examiner's rejections and arguments are respectfully traversed as the forecast according to the present application, also referred to as a nowcast, and the weather forecast alluded to by Smith are significantly different from one another. The differences between the forecast according to the present invention and the forecast according to Smith are evident when considering the different data and tools utilized for abstracting the respective forecast and the advertisement associated thereto. More specifically the type of data utilized to abstract the forecast is paramount both in the quality and accuracy of the forecast itself as well as the ensuing advertisement upon which it is based. Therefore different forecasts lead to different advertisements that may be associated with it, for example with respect to the location and the type of expected weather conditions. The applicant asserts with proper supportive evidence submitted in an Information Disclosure Statement that the two forecasts are not identical primarily because the data upon which the forecast of the instant application is based namely, satellite data and/or radar data, is significantly different than that alluded to by Smith.

Smith does not disclose or provide details of the meteorological data and/or type of forecast that may be used to abstract the weather forecast utilized in his method and apparatus. Rather, Smith identifies a weather database 108, as depicted in Figure 1, as the source for the weather forecast in his application. Because Smith does not identify or provide any detail and/or meteorological data used to abstract his weather related advertisement it is understood that Smith refers to a commonly available weather database, available at the time, such as that offered by the National Digital Forecast Database (NDFD) that may provide

access to weather forecasts in digital form from a central location. A description of the forecast and meteorological information used by the NDFD is enclosed herewith and is available at http://www.weather.gov/ndfd/background.htm. This assumption is validated in that at the time of Smith's disclosure this was the only readily available weather database, as described in the attached publications entitled, NDFD background information and the NDFD database contents shows that the forecast made available at the time of Smith, through a weather database, such as 108 described by Smith, was a standard model based forecast. A further depiction of the NDFD is provided by the enclosed article by GLAHN AND RUTH, "NOAA NDFD - The New Digital Forecast Database of National weather Service", in AMERICAN METEOROLOGICAL SOCIETY published on Feb. 2003 describing and introducing the NDFD.

Review of the different databases clearly showing that the forecast potentially made available to Smith at the time of his disclosure are model based forecasts and not forecast based on either satellite data or radar data, as provided in the instant application. Moreover Glahn and Ruth describe the state of the art weather database made available by the National Weather Service (NWS) prior to the introduction of the NDFD discussed above, called the zone forecast as described in page one second paragraph:

> *The flagship product of the NWS for years has been the zone forecast: a brief, plain-English description of what the weather will be over the next few days for a multicounty area. Similar text, containing much of the same information, is produced to support marine and federal fire weather interests and emergency managers.*

Glahn and Ruth go on to describe three different methods for entering digital forecast into the database (matrix, model interpretation, graphical), see page 196

left column last paragraph to page 197 third paragraph. The applicant asserts that non of these methods includes or merely suggests the use of satellite or radar data.

A further validation of the assumption that the weather database 108 available to Smith does not contain Satellite and/or Radar data is provided by a publication by Austin of the National Weather Service (NWS) in "NWS Digital Service Operational Concept", dated June 2004, paragraph 2.3 further indicates that neither radar or satellite data is incorporated into a weather database.

As previously indicated the instant application however clearly disclosed the type of data utilized to abstract its forecast for abstracting a weather based advertisement. Throughout the description of the instant application, for example as in Figure 1, shows that the forecast of the instant application is based on a plurality of data sources 102, for example Satellite 110, Radar 112, third party devices, environmental data, historical data and the like. Therefore the forecast made available to the weather based advertisement of the instant application is based on satellite data and/or radar data. A forecast based on radar and/or satellite data change the forecast and in turn the advertisement that may be associated or abstracted from it. To this end, the Examiner is provided with a publication, to KEIL et al, "Evaluating High-Resolution Model Forecasts of European Winter Storms by Use of Satellite and Radar Observations", Weather and Forecasting, Vol., 18, pp 732-747, October 2003, showing the significant effects of satellite and radar based forecasts as opposed to a model based forecast associated with Smith.

Keil et al specifically show that satellite data is not included in the accepted model based forecasts available at the time of Smith, (such as the NDFD, zoned databases described above), as described on page 734 top

paragraph right column above section b. Keil et al goes on to discuss radar data explaining why such data is not included in the model based forecasts or weather databases available to Smith, as described on page 735 left column first paragraph of section c. Keil et al, goes on to show that the radar and satellite data provide a significantly different forecast as shown on page 764 left column first paragraph.

> "Hourly boundary conditions are obtained from DWD's global model GME[1] (Majewski et al. 2002). The data assimilation scheme of GME is based on a traditional intermittent 6-hourly analysis–forecast cycle using an optimum interpolation (OI) scheme. Analyses are performed at 0000, 0600, 1200, and 1800 UTC based on all observations valid in a ±1.5-h window around the analysis times. **Satellite raw radiances and derived cloud condensate amounts are not currently used in the assimilation process.** A multivariate OI scheme provides the analysis of the mass and wind fields simultaneously", Keil pg. 734 (emphasis added)
>
> &
>
> "Hence, vertical echo structure functions cannot be used to derive a corrected ground signal (Joss and Lee 1995). As a consequence, observed radar imagery can only be used qualitatively in this study", Keil pg. 735
>
> &
>
> "Visual inspection of the model-simulated cloud and precipitation pattern in synthetic versus observed satellite and radar imagery reveals a qualitatively good forecast for this second winter storm. Whereas the overall structure of the cloud and precipitation fields in both image types agrees with the observation, some obvious differences are detectable with respect to the intensity of the precipitation and the position of the cold front.", Keil pg. 743

The applicant assert that neither radar and/or satellite data would have been incorporated into the forecast and therefore advertisements as disclosed by Smith as the inclusion, processing of such data is not trivial or readily available in the art, as described in Keil et al above. More specifically at the time of Smith's disclosure any type of inclusion of radar and/or satellite data would be achieved manually by an expert in the art. Conversely, the instant application discloses an automated process for including such radar and/or satellite data in a forecast therefore improving the quality of the forecast and in turn the accuracy of the associated advertisement.

Accordingly in order to clearly set the instant application apart from Smith claims 66 and 86 have been amended to recite that the instant application utilizes at least one of satellite and/or radar data when providing a weather forecast upon which an advertisement is abstracted. The addition of at least one of satellite and/or radar information clearly sets the instant application apart from Smith as the papers and arguments presented hereinabove show that the a weather forecast based on satellite and radar is significantly different, and not commonly available then any weather forecast that may have been utilized by Smith. To this end secondary amendments based on the amendments made to claim 66 ensue for example claims 92 and 94 have been cancelled without prejudice while claims 67, 69, 70, 72, 73, 75, 78, 80, 84, 85 have been amended accordingly.

**Rejections Under 35 U.S.C. §103(a)**

The Examiner rejected claim 70 under 35 U.S.C. §103(a) as being unpatentable over Smith arguing that it would have been obvious for one skilled in the art to provide other types of external weather forecasts to improve the

system provided by many external weather forecast resources. The Examiner's arguments are moot following the arguments and amendments introduced above.

The Examiner rejected claims 90 and 91 under 35 U.S.C. §103(a) as being anticipated by Smith in view of us Patent Publication No. US2003208754A1 to Sridhar et al. (referred to herewith as Sridhar). The Examiner argues that it would have been obvious for one skilled in the art to modify the advertisement taught by Smith with the advertisement geared to suit the audiovisual preferences of the viewer as disclosed in Sridhar. The Examiner's arguments are moot following the arguments and amendments introduced above.

## CONCLUSION

Applicant believes that the claims are in condition for allowance. If the Examiner believes that a telephonic interview with the undersigned would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned at (301) 952-1011.

Respectfully submitted,

Date: October 14, 2009
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Attachments